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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/713,724 | 11/13/2003 | David W. Freet | 93214.036 | 2060 |

7590 07/27/2006
Paul F. Wille
6407 East Clinton Street
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| EXAMINER |
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FOX, CHARLES A

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| ART UNIT | PAPER NUMBER |
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3652

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/713,724 | Applicant(s) FREET ET AL. | |
| | Examiner Charles A. Fox | Art Unit 3652 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-13, 15, 16, 23, 24, 26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-13, 15, 16, 23, 24, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16,23,24,26 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 16 in line 6 appears to want a platform to be coupled to the second telescopic member. However the word platform is lined through, and as such it is not entirely clear as to what the applicant is claiming. In the art rejection below the tool1 as originally claimed is being treated as a platform. Claims 23,24,26 and 27 depend from claim 16 and have the same deficiencies.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 11 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Williams et al. Williams et al. US 6,726,435 discloses a device for a vehicle comprising:

a lift with a first telescoping member(16), coupled to said vehicle within a protected area;

a second telescopic member (24) attached to said first telescopic member;

a tool (12) comprising a platform coupled to said second telescopic member and movable along two orthogonal axes of motion defined by the telescopic members;

at least one of the telescopic members has at least two nested slides;

wherein the first slide (28) has a pair of rollers (30) on each side and the second slide (14) has a pair of U-shaped channels for enclosing said rollers such that the slides provide telescopic action relative to a base member (36).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12,13,23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. as applied to claims 11 and 16 above, and further in view of Walkden. Williams et al. teach the limitations of claims 11 and 16 as above, they do not teach any particular structure to the telescopic members. Walkden US 5,795,125 teaches a telescopic device comprising:

a first slide member (22) with rollers (70) thereon;

said rollers being mounted on each lateral side of said slide;

said slides also have a block (72) thereon for engaging a channel on a side opposite the rollers;

a second nested slide (24) said channels on opposite sides thereof;

said channels enclosing said rollers and blocks to provide a telescopic action;

wherein a block on either side of the slide is located between the two rollers on that respective side;

wherein said blocks stabilize the motion of the slide by biasing the carriage from side to side. While Walkden does not teach biasing the wheels relative to the blocks it would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Williams et al. with a telescopic assembly as taught by Walkden in order to allow the slides to move easily past one another while maintaining the alignment of said slides in all directions.

Claims 15, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. as applied to claims 11 and 16 above, and further in view of Ringdahl et al. Williams teaches the limitations of claims 11 and 16 as above, they also teach drive motors for vertical and horizontal movement of the tool with an associated controller being inherent in the system. They do not explicitly teach any type of switch for their controller. Ringdahl et al. US 6,357,992 teaches a lift device for a wheel chair said device including a single switch (502) that initiates lifting and lowering of a platform (10) wherein the switch is connected to a microprocessor. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by

Williams et al. with a double throw switch and a microprocessor in order to control the device with a minimum of switches.

Response to Amendment

The amendments filed on May 3, 2006 have been entered into the record.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed May 3, 2006 have been fully considered but they are not persuasive. Regarding the combination of Williams and Walkden, the Walkden is cited as teaching specific structure found in a telescopic device, which one of ordinary skill in the art would recognize, as pertinent to the Williams reference. Therefore the reference to Walkden is analogous art.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is Schroeder et al. 2000.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CAF 7-20-06
CAF


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